

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
FLORENCE DIVISION**

Clayton B. Caves,

Plaintiff,

v.

Ray E. Holt, Regional Director;
Michael Branch, Captain Atlanta Region;
D.B. Drew, Warden Coleman USP II;
Mr. Johnson, Unit Mgr. Coleman USP II;
Mr. Crafton, Case Mgr. Coleman USP II;
Counselor Unknown Name, Coleman USP II;
Mr. Morris, Unit Mgr. Yazoo City FCC Med;
Mr. Lynchard, Counselor Yazoo City FCC Med;
Admin Remedy Coordinator Unknown Name,
Yazoo City FCC;
Kenny Atkinson, Warden Edgefield FCI;
Mr. Koger, Unit Mgr. Edgefield FCI;
Mr. Clark, Counselor Edgefield FCI;
Mr. Bolton, Counselor Edgefield FCI;
Mr. Johnson, S.H.U. Lt. Edgefield FCI;
Assistant Warden Oscar Acosta, are sued in their
individual capacities,

Defendants.

Civil Action No. 4:12-cv-0070-JMC

ORDER

This matter is before the court for review of the Magistrate Judge's Report and Recommendation ("Report"), [Doc. 40], filed on May 8, 2012, recommending that this court dismiss Defendants Holt, Branch, Drew, Johnson, Crafton, "Counselor Unknown Name" at Coleman, Morris, Lynchard, and "Admin Remedy Coordinator Unknown Name" at Yazoo City, without prejudice and without issuance and service of process. Plaintiff is incarcerated at R.A. Deyton Detention facility in Lovejoy, Georgia. Plaintiff filed

this Bivens¹ action against Defendants seeking a protective order and a preliminary injunction or declaratory judgment based on allegations that Defendants refused to protect Plaintiff by revealing his informant status to other inmates which resulted in Plaintiff being attacked by other inmates. Furthermore, Plaintiff contends that because he is no longer affiliated with Aryan Circle, an alleged gang organization within the federal bureau of prisons, Defendants should continue to house him in protective custody or transfer him to state custody for his safety. In reference to the remaining Defendants, the Magistrate Judge entered an Order [Doc. 39] authorizing service of process. The Report sets forth in detail the relevant facts and legal standards on this matter, which the court incorporates herein without a recitation.

The Magistrate Judge's Report is made in accordance with 28 U.S.C. § 636(b)(1) and Local Civil Rule 73.02 for the District of South Carolina. The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with this court. *See Mathews v. Weber*, 423 U.S. 261, 270-71 (1976). The court is charged with making a *de novo* determination of those portions of the Report to which specific objections are made, and the court may accept, reject, or modify, in whole or in part, the Magistrate Judge's recommendation or recommit the matter with instructions. *See* 28 U.S.C. § 636(b)(1).

Plaintiff was advised of his right to file objections to the Report [Doc. 40 at 7]. However, Plaintiff filed no objections to the Report. In the absence of objections to the Magistrate Judge's Report, this court is not required to provide an explanation for adopting the recommendation. *See Camby v. Davis*, 718 F.2d 198, 199 (4th Cir. 1983). Rather, "in the absence of a timely filed objection, a district court need not conduct a *de novo* review, but instead must 'only satisfy itself

¹ *See Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388, 397 (1971).

that there is no clear error on the face of the record in order to accept the recommendation.”
Diamond v. Colonial Life & Acc. Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005) (*quoting* Fed. R. Civ. P. 72 advisory committee’s note). Furthermore, failure to file specific written objections to the Report results in a party’s waiver of the right to appeal from the judgment of the District Court based upon such recommendation. 28 U.S.C. § 636(b)(1); *Thomas v. Arn*, 474 U.S. 140 (1985); *Wright v. Collins*, 766 F.2d 841 (4th Cir. 1985); *United States v. Schronce*, 727 F.2d 91 (4th Cir. 1984).

After careful review of the record, the court **ACCEPTS** the Magistrate Judge’s Report and Recommendation [Doc. 40]. Therefore, for the reasons articulated by the Magistrate Judge, Defendants Holt, Branch, Drew, Johnson, Crafton, “Counselor Unknown Name” at Coleman, Morris, Lynchard, and “Admin Remedy Coordinator Unknown Name” at Yazoo City are **DISMISSED** without prejudice and without issuance and service of process.

IT IS SO ORDERED.

A handwritten signature in black ink that reads "J. Michelle Childs". The signature is written in a cursive, flowing style.

United States District Judge

Greenville, South Carolina
July 3, 2012.